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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,810	03/06/2002	Robert L. Miller II	01-2122.01	8404
24504	7590	06/04/2007	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP			TRUONG, LAN DAIT	
100 GALLERIA PARKWAY, NW			ART UNIT	PAPER NUMBER
STE 1750			2152	
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06/04/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/091,810	MILLER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lan-Dai Thi Truong	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 March 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-9, 11-15 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 3-9, 11-15, 17-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03/06/2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed 03/19/2007 has been entered.
2. This action is response to communications: application, filed on 03/06/2002; amendment filed 03/19/2007. Claims 1-28; claims 1, 3-9, 11-12, 14, 20, 20-21 and 24 are amended; claims 2, 10, 16 are canceled.
3. The applicant's arguments filed on 03/19/2007 have fully considered but they are moot in view with new ground for rejections according to new scopes of amended claims

### **Response to Arguments**

4. Applicant's arguments filed 03/19/2007 have been fully considered; but Applicant's arguments are not persuasive as discussions below.
5. In response to applicant's argument that there is no suggestion to combine the references (U.S. 6,308,205 to Carcerano and U.S. 5,428,748 to Davidson et al.); because the new scopes of amended invention claims now are rejected under new combination of other cited references (U.S. 6,308,205 to Carcerano and U.S. 6,246,747 to Lewis et al.) so the arguments are not addressed

6. Regarding to applicant's arguments with respect to the Carcerano does not disclose claimed feature of: "control value" are not persuasive; Carcerano clearly discloses the browser-based management system includes template is used to receive "updating configuration data" which is equivalent to "control values" as claimed, see (abstract; column 8, lines 54-67; column 9, lines 1-67; column 5, lines 29-31; column 3, lines 5-23; column 6, lines 12-19; column 8, lines 53-61)

5. Regarding to applicant's arguments with respect to the Carcerano does not disclose claimed feature of: "memory for storing a provision template to be used to configured a plurality of network elements of communication network" are not persuasive; Carcerano discloses a browser-based network configuration system for remotely viewing and updating configurations of at least one of "a plurality of network devices" those share functionality with "network elements" through templates, see (abstract). The browser based network management server includes "a database" which is equivalent to "memory" for storing templates those are generated based on types of received requests. The templates used to provide current configuration information to the network devices, thereby the user can update new "configuration parameters/control data" which is equivalent to "control values": abstract; Fig 5, items 105, 107; column 2, lines 46-53; column 5, lines 13-31; lines 29-31; column 8, lines 54-67; column 9, lines 1-67; column 3, lines 5-23; column 6, lines 12-19)

6. Regarding to applicant's arguments with respect to the Carcerano does not disclose claimed feature of: "one of the control values indicative of how a user has specified a network element attribute is to be provisioned for each of the plurality of network elements" are not persuasive; as similar to the discussions addressed in section 5, Carcerano discloses the templates

are used to provide current configuration information for the network devices; the remote user can view and update new “configuration parameters/control data” which is equivalent to “control values” through the templates: abstract; Fig 5, items 105, 107; column 2, lines 46-53; column 5, lines 13-31; lines 29-31; column 8, lines 54-67; column 9, lines 1-67; column 3, lines 5-23; column 6, lines 12-19)

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the one of control value based on user input received by at least one of the remote clients) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., automatically provision each of the identified network element by updating a respective configuration of each of the identified network elements based on the one control value thereby changing the network element attribute for each of the plurality of network elements) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. In response to applicant's arguments with respect to the differences between the cited Davidson and claimed features; because the new scopes of amended invention claims now are

rejected under new combination of other cited references (U.S. 6,308,205 to Carcerano and U.S. 6,246,747 to Lewis et al.) so the arguments are not addressed

### **Claim rejections-35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 1 recites the limitation " the plurality of network " in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. However for examining purpose, the office will interpret "the plurality of network" means "the plurality of network elements". The appropriate information is requested

### **Claim rejections-35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1, 3-9, 11-12, 14-15, 17, 20-22, 24-26 are rejected under 35 U.S.C 103(a) as being un-patentable over Carcerano et al. (U.S. 6,308,205) in view of Lewis et al. (U.S. 6,243,747)**

**Regarding claim 1:**

Carcerano discloses the invention substantially as claimed, including a method, apparatus and system, which can be implemented in a computer hardware or software code for managing elements of a communication network, the EMS in communication with a plurality of remote clients, comprising:

A memory for storing a provision template having control values; one of the control values indicative of how a user has specified a network element attribute is to be provisioned for each of the plurality of network elements, the one control value based on user input received by at least one of the remote clients: (Carcerano's present invention is directed to a system for remotely viewing and updating configurations of network devices. More particularly, the invention is directed toward a system that allows such viewing and updating of configuration from a remote network site using a web browser; thereby, the system includes a browser based network management server with "a database" which is equivalent to "memory" for storing templates those are used to receive "the update configuration parameters/control data" which is equivalent to "control values" those are input/ selected by remote network users: figure 9; column 1, lines 10-15; abstract; Fig 5, items 105, 107; column 2, lines 46-53; column 5, lines 13-31; lines 29-31; column 8, lines 54-67; column 9, lines 1-67; column 3, lines 5-23; column 6, lines 12-19)

A system controller configured to identify, based on user input received by at least one of the remote clients, each of the plurality of network elements, and automatically provision each of the identified network elements by updating a respective configuration of each of the identified network elements based on one control value thereby changing the network element attribute for each of the plurality of network elements, automatically: (Carcerano discloses a browser-based network configuration system for remotely viewing and updating configurations of at least one of “a plurality of identified/ or target network devices” those share functionality with “network elements”. Thereby, the users can update “new configuration parameters/control data” which is equivalent to “control values” through the templates: abstract; Fig 5, items 105, 107; column 2, lines 46-53; column 5, lines 13-31; lines 29-31; column 8, lines 54-67; column 9, lines 1-67; column 3, lines 5-23; column 6, lines 12-19)

The network elements are communicatively coupled to the EMS via the communication network: (Carcerano discloses communications between the network devices and the browser-based network configuration system are implemented over a network: abstract)

However, Carcerano does not explicitly disclose technique of using one provision template to configure a plurality of network elements of the communication network

In analogous art, Lewis discloses method for using a template to generating configuration for group of network devices, see (Lewis: column 2, lines 50-67; column 6, lines 18-45; column 7, lines 1-33)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Lewis’s ideas of to generating configuration for group of network devices through a template with Carcerano’s system in order to increase efficiencies for

configuration system such as reducing configuration time consuming, limiting terms of the operations and error prone, see (Lewis: column 2, lines 5-8)

**Regarding claim 8:**

In addition to rejection in claim 1, Carcerano-Lewis further discloses the correlating between the provision template with a plurality of network elements to which the provision template to be applied: (Carcerano discloses method of remotely viewing and updating configurations of at least one of identified/ or target network device; so process of correlating between the provision template and the network element to which the provision template is inherently included in Carcerano's configuration system: abstract)

**Regarding claim 12:**

This claim is rejected under rationale of claim 8

**Regarding claim 14:**

This claim is rejected under rationale of claims 1 and 8

**Regarding claim 17:**

This claim is rejected under rationale of claims 14

**Regarding claim 21:**

In addition to rejection in claims 1 and 8, Carcerano-Lewis further discloses retrieving the provision template from the memory in response to request: (Lewis discloses step of retrieving recorded configuration values: abstract)

**Regarding claim 15:**

In addition to rejection in claim14, Carcerano-Lewis further discloses displaying provision template: (this claimed figure is inherently included in both Carcerano and Lewis)

**Regarding claims 3, 9 and 11:**

In addition to rejection in claims 1 and 8, Carcerano-Lewis further discloses the plurality of remote clients: (Carcerano discloses method of viewing and updating configurations of at least one of identified/ or target network device from remote workstation; it would have been obvious in the art to know that this great idea of Carcerano also can be able to share with plurality of remote users in order to increase more efficiencies and benefits for the system users)

Sets of graphical user interface (GUI) code: (Carcerano discloses the technique of using a browser-based network configuration system including the templates for remotely viewing and updating configurations of at least one of a plurality of identified/ or target network devices. Thereby, the users can update new configuration parameters/control data through the templates; the graphical user interface (GUI) code is inherently included in Carcerano's browser-based network configuration system: abstract; Fig 5, items 105, 107; column 2, lines 46-53; column 5, lines 13-31; lines 29-31; column 8, lines 54-67; column 9, lines 1-67; column 3, lines 5-23; column 6, lines 12-19)

**Regarding claims 4-5, 7:**

Those claims are rejected under rationale of claim 1

**Regarding claim 6:**

This claim is rejected under rationale of claim 1

**Regarding claim 13:**

This claim is rejected under rationale of claim 12

**Regarding claim 20:**

This claim is rejected under rationale of claim 8

**Regarding claims 22 and 24-26:**

This claim is rejected under rationale of claim 21

**Claims 18-19, 23 are rejected under 35 U.S.C 103(a) as being un-patentable over Carcerano-Lewis in view of Ruberg et al. (U.S. 6,538,668)**

**Regarding claims 18 and 23:**

Carcerano-Lewis discloses the invention substantially as disclosed in claims 1 and 21, but does not explicitly teach wherein the network element attribute is line speed

However, Ruberg discloses one of setting configuration attributes is mouse speed, see (column 1, lines 25-35)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Ruberg's ideas of including mouse speed in setting configuration attributes with Carcerano-Lewis's system in order to increase processing speed for network device

**Regarding claim 19:**

This claim is rejected under rationale of claims 1 and 18

**Claims 27-28 are rejected under 35 U.S.C 103(a) as being un-patentable over Carcerano-Lewis in view of Iijima et al. (U.S. 6,223,218)**

**Regarding claims 27- 28:**

Carcerano-Lewis discloses the invention substantially as disclosed in claims 1 and 12, but does not explicitly teach without the user repetitively specifying

In analogous art, Iijima discloses an automatic configuration information setting system; wherein configuration parameters are automatically set and updated without effort by network administrator: (abstract, lines 1-25)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Iijima's ideas of automatically setting/updating configuration parameters for network devices/switches with Carcerano-Lewis's system in order to increase efficiencies into configuration system and economic benefits i.e. reducing human labor consuming

The prior arts made of records and not relied upon are considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "element management system and method utilizing provision templates":  
2002/0049693; 6694384; 6466972; 6678827: column 10, lines 1-67; 6957186; 5666534; 6324654; 6389464, 6243747

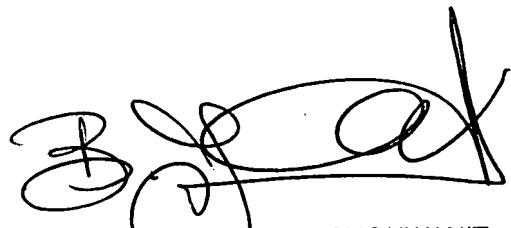
## **Conclusions**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan-Dai Thi Truong whose telephone number is 571-272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob A. Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

05/25/2007



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER

8/28/07